



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,101	12/18/2000	Lixiao Wang	S63.2-9285	5268

490 7590 12/24/2002

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 12/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,101

Applicant(s)

WANG, LIXIAO

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-21 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 4, 6, 10 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Fischell et al. (US 6,221,043).

Fischell et al. provides a stent delivery system comprising a catheter having a catheter shaft and a medical balloon mounted thereto. The medical balloon having a non-inflated state and being inflatable to an inflated state, a stent mounting region and a stent disposed about at least a portion of the stent mounting region. The stent mounting region having a middle portion, a first end portion adjacent to the middle portion and a second end portion adjacent to the middle portion (figures 2 and 5). The middle portion having a diameter that is greater than the first and second end portion's diameters in the non-inflated state. The middle, first end and second end portions having the same diameters when in the inflated state. A first cone being adjacent to the first end portion and having a first waist engaged to a first portion of the catheter shaft and the first end diameter being greater than the first waist diameter. A second cone being adjacent to the second end portion and having a second waist engaged to a second portion of the catheter shaft and the second end diameter being greater than the second waist

Art Unit: 3765

diameter (figure 2, identifiers 14 and 18). The stent having an unexpanded state and an expanded state with a center, first and second end (column 7, lines 45-63).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischell et al.

Fischell et al. provides a stent delivery system as described above in claim 1. However, Fishcell et al. fails to teach the balloon being manufactured from polyesters, polyethylene terephthalate, polybutylene terephthalate, etc.

It would have been obvious to have provided the balloon manufactured from a variety of suitable polymer materials, including polyethylene terephthalate, polyesters, polyubutylene terephatahalate, etc., since all are polymers that are suitable for medical balloon devices and supported in Applicants specification (page 5, lines 6-14).

Response to Arguments

4. Applicant's arguments filed 12/03/02 have been fully considered but they are not persuasive.

In Response to Applicant's arguments that Fischell et al. fails to teach " a balloon having a middle portion diameter a first end portion diameter and a second end portion diameter." Does not include certain feature of Applicant's invention, the limitations on

Art Unit: 3765

which the Applicant relies (i.e. the balloon's center and end portion diameters) are not stated in claims 1, 4, 6 and 9-11. It is claims not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices, INC.*, 7USPQ2d 1064.

Applicant has amended claim 1 to include the balloon portion diameters being the same in the inflated state. Fischell et al. provides the balloon portion diameters being the same in the inflated state, see figure 4. Even amended claim 1 and non-amended claims 4, 6 and 9-11 do not teach a balloon having a center, first end and second end diameters being different from each other. The only claimed matter is that the center, first and second ends all have the same inflation diameters when inflated. Nothing in the claims details the balloon ends and center having varying diameters, the stent mounting region is the only area that claims the center region to have a greater diameter than the end regions in the non-inflated state. Fischell et al. teaches the center of the stent mounting region having a greater diameter in the non-inflated state (see figure 4, 6 and 7).

Allowable Subject Matter

5. Claims 12-21 are allowed.
6. Claims 2, 3, 5, 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0758 for regular communications and (703) 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


GLORIA M. HALE
PRIMARY EXAMINER